

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB EUS 14-01 Department of Agriculture & Consumer Services

**SPONSOR(S):** Energy & Utilities Subcommittee

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1044

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Energy & Utilities Subcommittee		Whittier	Keating

### SUMMARY ANALYSIS

PCB EUS 14-01 addresses the duties and responsibilities of the Department of Agriculture and Consumer Services (department) with respect to energy issues. Specifically, the bill does the following:

- Authorizes the Commissioner of Agriculture to appoint a representative to the Southern States Energy Board;
- Adds a representative of the department to the Florida Building Commission;
- Clarifies that the department must promote all forms of renewable energy, not simply solar;
- Clarifies that the department must promote and provide reports and recommendations on both energy conservation and efficiency measures;
- Authorizes the department to work in cooperation with the Florida Energy Systems Consortium;
- Authorizes the department to post information on alternative fueling stations and electric vehicle charging stations on the department's website;
- Repeals the expired Solar Energy Systems Incentive Program and related cross-references;
- Repeals the expired Florida Energy Star Residential HVAC Rebate Program and related cross-references;

The bill does not appear to have a fiscal impact on state or local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Southern States Energy Board (Sections 1 and 3)**

###### Present Situation

The Southern States Energy Board (SSEB or Board) is a non-profit interstate compact organization created by state law in 1960 and consented to by Congress<sup>1</sup> with a broad mandate to contribute to the economic and community well-being of the southern region.<sup>2</sup> Its mission is “to enhance economic development and the quality of life in the South through innovations in energy and environmental policies, programs and technologies.”<sup>3</sup>

Sixteen southern states and two territories comprise the board: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, U.S. Virgin Islands, Virginia, and West Virginia. Each jurisdiction is represented by the Governor and a Legislator from the House and Senate. A Governor serves as the chair and legislators serve as vice-chair and treasurer. Ex-officio non-voting Board members include a federal representative appointed by the President of the United States, the Southern Legislative Conference Energy and Environment Committee Chair, and the Board’s executive director, who serves as secretary.<sup>4</sup>

According to the Board’s website, the SSEB pursues its mission through the creation of programs in the fields of energy and environmental policy research, development and implementation, science and technology exploration, and related areas of concern. The SSEB “serves its members directly by providing timely assistance designed to develop effective energy and environmental policies and programs and represents its members before governmental agencies at all levels.”<sup>5</sup>

According to its website, the Board’s long-term goals are the following:

- Perform essential services that provide direct scientific and technical assistance to state governments;
- Develop, promote, and recommend policies and programs on energy, environment, and economic development that encourage sustainable development;
- Provide technical assistance to executive and legislative policy-makers and the private sector in order to achieve synthesis of energy, environment, and economic issues that ensure energy security and supply;
- Facilitate the implementation of energy and environmental policies between federal, state, and local governments and the private sector;
- Sustain business development throughout the region by eliminating barriers to the use of efficient energy and environmental technologies; and
- Support improved energy efficient technologies that pollute less and contribute to a clean global environment while protecting indigenous natural resources for future generations.<sup>6</sup>

According to the Board’s website, core funding is comprised of appropriations from its 18 member jurisdictions, and each member’s share of support is determined by a formula written into the original Southern States Energy Compact (Compact). The formula uses relative state population, per capita,

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<sup>1</sup> Public Laws 87-563 and 92-440.

<sup>2</sup> Southern States Energy Board website found at <http://www.sseb.org/about/> (last visited on March 16, 2014).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

income and equal shares as factors. The Board has not requested an increase in state appropriations since 1987.<sup>7</sup>

Section 377.711, F.S., establishes Florida as a member of the Compact. Section 377.712, F.S., provides for Florida's participation on the SSEB, by requiring the Governor, the President of the Senate, and the Speaker of the House of Representatives to each appoint one member to the SSEB.<sup>8</sup> The section also authorizes departments, agencies, and officers of the state and its subdivisions to cooperate with the SSEB if the activities have been approved by either the Governor or the Florida Department of Health.

### Effect of Proposed Changes

The bill gives authority to the Commissioner of Agriculture to serve as a member of the Southern States Energy Board or to appoint a deputy or assistant from the department to serve. (This authority replaces existing language, removed in the bill, which authorized the Department of Agriculture and Consumer Services to represent Florida in the Southern States Energy Compact). This change provides greater consistency with the provisions of s. 377.712, F.S., which specify Florida's participation in the SSEB. The bill also replaces reference to the Department of Health with reference to the Department of Agriculture and Consumer Services.

## **Office of Energy (Section 2)**

### Present Situation

In response to the energy crisis in the 1970s, the State Energy Office was established by the Legislature in 1975.<sup>9</sup> Prior to becoming a part of the Department of Agriculture and Consumer Services, it has been housed in the Department of Administration, the Department of Community Affairs, the Department of Environmental Protection, and the Executive Office of the Governor. In 2006, the Legislature established the Florida Energy Commission, as an arm of the Legislature, to develop recommendations for legislation to establish a state energy policy.<sup>10</sup>

During the 2007 Legislative Session, the issue of fragmentation of energy policy governance was raised. At that time, there were many public sector entities playing a role in developing, implementing, or coordinating some aspect of Florida's energy policies: the Florida Energy Office within the Department of Environmental Protection; the Department of Community Affairs; the Florida Building Commission; the Department of Agriculture and Consumer Services; the Department of Management Services; the Department of Financial Services; the Public Service Commission; the Florida Energy Commission; and a host of colleges and universities.

In 2008,<sup>11</sup> the Legislature established the Florida Energy and Climate Commission (Commission or FECC) as the state entity responsible for recommending, implementing, and coordinating Florida's energy policy and for coordinating all federal energy programs delegated to the state. The measure, in effect, merged the Department of Environmental Protection's Florida Energy Office with the Legislature's Florida Energy Commission and administratively placed the new entity within the Executive Office of the Governor. In 2009, the Senate failed to confirm the membership of the Commission.

In 2011,<sup>12</sup> the Legislature abolished the Florida Energy and Climate Commission and transferred all of its powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing

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<sup>7</sup> *Id.*

<sup>8</sup> Currently, the Florida members are Governor Rick Scott, Senator Anitere Flores, and Representative Jose Felix Diaz.

<sup>9</sup> Chapter 75-256, L.O.F.

<sup>10</sup> Former s. 377.901(5), F.S.

<sup>11</sup> Section 46, ch. 2008-227, L.O.F.

<sup>12</sup> Chapter 2011-142, L.O.F.

contracts from the Executive Office of the Governor to the Office of Energy (Office) within the Department of Agriculture and Consumer Services.

Among its responsibilities, the Office of Energy administers tax incentive programs, administers the provisions of the Florida Energy and Climate Protection Act, works cooperatively with other state entities regarding energy-related matters, and provides energy policy recommendations to the Legislature.

The department provides an annual report to the Governor and the Legislature reflecting its activities and its policy recommendations. The report must include a report from the Public Service Commission addressing, among other things, ongoing energy conservation programs and must include recommendations for energy conservation programs in the state. Further, the department must promote energy conservation in all energy use sectors throughout the state.<sup>13</sup>

The terms “energy conservation” and “energy efficiency” are often used interchangeably, but have distinct meanings. Energy conservation is generally defined as reduction in total levels of energy consumption.<sup>14</sup> An example is lowering the thermostat. Energy efficiency is generally defined as achieving more services from the same energy input or the same services from less energy input.<sup>15</sup> An example is replacing an incandescent light bulb with an LED light bulb. Programs addressed by the PSC include both energy conservation and energy efficiency measures.

The department must also promote the development and use of renewable energy resources. Current law requires it to do so by: establishing goals and strategies for increasing the use of solar energy in the state; aiding and promoting the commercialization of solar energy technology; identifying barriers to greater use of solar energy systems in this state; and investigating opportunities for solar electric vehicles and other solar energy manufacturing, distribution, installation, and financing efforts which will enhance Florida’s position as a leader in solar energy research, development, and use.<sup>16</sup>

The Florida Energy Systems Consortium (consortium or FESC) promotes collaboration among experts in the State University System for the purposes of sharing energy-related expertise and assisting in the development and implementation of a comprehensive, long-term, environmentally compatible, sustainable, and efficient energy strategic plan for the state. The consortium is to focus on the research and development of innovative energy systems that will lead to alternative energy strategies, improved energy efficiencies, and expanded economic development for the state.<sup>17</sup> The consortium consists of all of the state universities and is administered at the University of Florida by a director appointed by the President of the University of Florida. The director reports to the Department of Agriculture and Consumer Services.<sup>18</sup>

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<sup>13</sup> Section 377.703(2)(f) and (i), F.S.

<sup>14</sup> *Florida’s Electric Utilities: A Reference Guide*, Revised 1994 Edition, p. 35.

<sup>15</sup> See <http://www.iea.org/topics/energyefficiency/>

<sup>16</sup> Section 377.703(2)(h), F.S.

<sup>17</sup> Section 1004.648, F.S.

<sup>18</sup> *Id.*

## Effect of Proposed Changes

For decades, the state has promoted attainment of energy conservation and energy efficiency. The bill clarifies that the duties of the department include making recommendations, collecting and disseminating information, and developing and conducting educational and training programs regarding energy efficiency in addition to conservation. The bill captures both “energy conservation” and “energy efficiency” programs to reflect the broad array of programs addressed by the PSC and clarifies that the department’s recommendations and promotional efforts must address both. The bill clarifies that the department’s efforts to promote renewable energy resources not be limited to solar energy technologies, but include all renewable resources.

The bill adds the Florida Energy Systems Consortium to the list of entities that the Office of Energy is to work with in cooperation.

### **Solar Energy Systems Incentive Program and Florida Energy Star Residential HVAC Rebate Program (Sections 4, 5, 6, 9, and 10)**

The Legislature created the Solar Energy System Incentives Program (Solar Rebate Program or program) in 2006 to encourage homeowners and businesses to purchase and install solar energy systems. Rebates ranged from \$100 for solar pool heaters to up to \$100,000 for solar energy systems for businesses. Systems installed from July 1, 2006, to June 30, 2010, were eligible for limited rebates on the purchase and installation costs, subject to legislative appropriation.

Starting in 2006, the Legislature appropriated over \$25 million,<sup>19</sup> over the course of the program, in funding for the Solar Rebate Program. However, the program proved more popular than anticipated and funds were depleted. A backlog of over \$52 million in unpaid rebate applications had accumulated as of October 2010.

In August 2010, the Florida Energy and Climate Commission (FECC) created the Florida Energy Star Residential HVAC Rebate Program (HVAC Rebate Program) in accordance with s. 377.807, F.S. The program was intended to provide \$1,500 rebates for the purchase and installation of eligible HVAC systems and was to commence August 30, 2010, and terminate on December 31, 2010, or when funds were depleted. The FECC announced the program in August 2010 without having authorized funding. The FECC sought funding through the Legislative Budget Commission (LBC); however, as the funding transfer request was not lawfully permissible no action was taken by the LBC. Consequently, the FECC suspended the program and announced that all applications were pending legislative action.<sup>20</sup>

In November 2010, during Special Session A, the Legislature passed HB 15-A which provided for payment of HVAC rebates and provided that any remaining funds, after processing payment of all approved HVAC rebates, be used to proportionally pay all approved, but unpaid, rebate applications in the Solar Rebate Program backlog. After the funds were exhausted, both programs were closed. New installations and purchases have not been eligible for rebates under those programs since 2010.

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<sup>19</sup> The Legislature provided the following funding for the program:

- FY 2006-07 \$2.5 million in General Revenue;
- FY 2007-08 \$3.5 million in General Revenue;
- FY 2008-09 \$5.0 million in General Revenue; and
- FY 2009-10 \$14.4 million in federal ARRA 2009 funds

<sup>20</sup> House Staff Analysis for HB 15-A (November 16, 2010) (on file with the Energy & Utilities Subcommittee).

## Effect of Proposed Changes

The Solar Energy System Incentives Program and the Florida Energy Star Residential HVAC Rebate Program are no longer in existence and all of the qualified applicants have received a rebate. The bill removes the expired programs and their associated definitions and cross-references from the statutes.

## **Alternative Fueling Stations and Electric Vehicle Charging Stations (Section 7)**

### Present Situation

Over the last decade, the state has adopted incentives for alternative-fuel vehicles. Most recently, in 2013, the Legislature created a program for natural gas fuel fleet conversions that began January 1, 2014. Administered by the Department of Agriculture and Consumer Services, the state offers a rebate for up to 50 percent of the eligible costs of a natural gas fuel fleet vehicle or bi-fuel operating system placed into service on or after July 1, 2013.<sup>21</sup> An applicant is eligible to receive a maximum rebate of \$25,000 per vehicle up to a total of \$250,000 per applicant per fiscal year, on a first-come, first-served basis.

Electric Vehicles (EVs) are becoming more commercially viable due to tax credits, the introduction of gasoline-electric hybrid technology, and improved batteries. As the technology becomes more established, EVs may become a more realistic alternative to gasoline and diesel-fueled vehicles.<sup>22</sup>

Estimates of the number of EVs in Florida, as provided by utilities and other organizations, ranged from approximately 1,000 to 6,000 in 2012<sup>23</sup> and are assumed to be higher in 2014. Because no agency tracks these figures formally, it is difficult to pinpoint the number more precisely, and future projections are even more speculative. The number of installed EV charging stations in the state is currently estimated at more than 400.<sup>24</sup>

Currently, there are alternative fuel and EV charging station locators available online, such as <http://floridagas.org/ForVehicles/FuelStationMap.aspx> and <http://www.afdc.energy.gov/locator/stations>, however, no source appears to provide a truly exhaustive list of alternative fuel or public charging stations.<sup>25</sup>

### Effect of Proposed Changes

The bill creates s. 377.815, F.S., which authorizes the Department of Agriculture and Consumer Services to post, on its website, information relating to alternative fueling stations and electric vehicle charging stations.

It defines the term “alternative fuel” to mean “nontraditional transportation fuel, such as pure methanol, ethanol, and other alcohols; blends of 85 percent or more of alcohol with gasoline; natural gas and liquid fuels domestically produced from natural gas; liquefied petroleum gas; coal-derived liquid fuels; hydrogen; electricity; pure biodiesel; fuels, other than alcohol, derived from biological materials; and P-series fuels.”

Specifically, the bill provides that an owner or operator of an alternative fueling station that is available in Florida may report any of the following information to the department (to be posted on the department’s website):

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<sup>21</sup> Ch. 2013-198, L.O.F

<sup>22</sup> Florida Public Service Commission, *Report on Electric Vehicle Charging*, p. 1 (December 2012).

<sup>23</sup> *Id.*

<sup>24</sup> Department of Agriculture and Consumer Services, Office of Energy, website:

<http://www.freshfromflorida.com/Energy/Electric-Vehicle-Charging-Stations-Infrastructure> (last viewed on March 17, 2014).

<sup>25</sup> *Id.*

- The type of alternative fuel available;
- The station's name, address, or location; or
- The fees or costs associated with the alternative fuel that is available for purchase.

The owner or operator of an electric vehicle charging station that is available in Florida may report any of the following information to the department (to be posted on the department's website):

- The station's name, address, or location; or
- The fees or costs, if any, associated with the electric vehicle charging services provided by the station.

## **Florida Building Commission (Section 8)**

### Present Situation

The Florida Building Commission (ss. 553.74 - 553.77, F.S.) is a 26-member technical body responsible for the development, maintenance, and interpretation of the Florida Building Code. The Commission also approves products for statewide acceptance and administers the Building Code Training Program. Members are appointed by the Governor and confirmed by the Senate and include the following design professionals, contractors, and government experts in the various disciplines covered by the code:

- One architect registered to practice in this state and actively engaged in the profession.
- One structural engineer registered to practice in this state and actively engaged in the profession.
- One air-conditioning or mechanical contractor certified to do business in this state and actively engaged in the profession.
- One electrical contractor certified to do business in this state and actively engaged in the profession.
- One member from fire protection engineering or technology who is actively engaged in the profession.
- One general contractor certified to do business in this state and actively engaged in the profession.
- One plumbing contractor licensed to do business in this state and actively engaged in the profession.
- One roofing or sheet metal contractor certified to do business in this state and actively engaged in the profession.
- One residential contractor licensed to do business in this state and actively engaged in the profession.
- Three members who are municipal or district codes enforcement officials, one of whom is also a fire official.
- One member who represents the Department of Financial Services.
- One member who is a county codes enforcement official.
- One member of a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in this state.
- One member of the manufactured buildings industry who is licensed to do business in this state and is actively engaged in the industry.
- One mechanical or electrical engineer registered to practice in this state and actively engaged in the profession.
- One member who is a representative of a municipality or a charter county.
- One member of the building products manufacturing industry who is authorized to do business in this state and is actively engaged in the industry.
- One member who is a representative of the building owners and managers industry who is actively engaged in commercial building ownership or management.
- One member who is a representative of the insurance industry.

- One member who is a representative of public education.
- One member who is a swimming pool contractor licensed to do business in this state and actively engaged in the profession.
- One member who is a representative of the green building industry and who is a third-party commission agent, a Florida board member of the United States Green Building Council or Green Building Initiative, a professional who is accredited under the International Green Construction Code (IGCC), or a professional who is accredited under Leadership in Energy and Environmental Design (LEED).
- One member who is a representative of a natural gas distribution system and who is actively engaged in the distribution of natural gas in this state.
- One member who shall be the chair.

The Department of Agriculture and Consumer Services, under the Florida Energy Efficiency and Conservation Act, is required, among other duties, to be a party in the proceedings to adopt energy efficiency and conservation goals and is to file with the Public Service Commission comments on those proposed goals,<sup>26</sup> including an analysis of the impact of state and local building codes and appliance efficiency standards on the need for utility-sponsored conservation and energy efficiency measures and programs.<sup>27</sup>

### Effect of Proposed Changes

The bill adds a representative of the Department of Agriculture and Consumer Services to the Florida Building Commission. The bill specifies that this representative be appointed from a list of three nominees provided by the Commissioner of Agriculture. If the Governor refuses to appoint a nominee from this list, the Governor must inform the commissioner within 60 days of receipt of the list, and the commissioner must submit a new list of three nominees.

#### B. SECTION DIRECTORY:

**Section 1.** Amends s. 377.6015, F.S., removing the power of the Department of Agricultural and Consumer Services to represent the state in the Southern States Energy Compact.

**Section 2.** Amends s. 377.703, F.S., expanding the promotion of the development and use of renewable energy resources from goals related to solar energy to renewable energy in general.

**Section 3.** Amends s. 377.712, F.S., authorizing the Commissioner of Agriculture to appoint a member to the Southern States Energy Board.

**Section 4.** Amends s. 377.801, F.S., conforming a cross-reference.

**Section 5.** Amends s. 377.802, F.S., revising the purpose of the Florida Energy and Climate Protection Act.

**Section 6.** Amends s. 377.803, F.S., conforming provisions to changes made by the Act.

**Section 7.** Creates s. 377.815, F.S., authorizing the Department of Agriculture and Consumer Services to post on its website information relating to alternative fueling stations or electric vehicle charging stations and defining the term "alternative fuel."

**Section 8.** Amends s. 553.74, F.S., adding a member to the Florida Building Commission as a representative of the Department of Agriculture and Consumer Services.

<sup>26</sup> In accordance with s. 366.82(2), F.S., the Public Service Commission shall adopt appropriate goals for increasing the efficiency of energy consumption and increasing the development of demand-side renewable energy systems, specifically including goals designed to increase the conservation of expensive resources, such as petroleum fuels, to reduce and control the growth rates of electric consumption, to reduce the growth rates of weather-sensitive peak demand, and to encourage development of demand-side renewable energy resources.

<sup>27</sup> Section 366.82(5) F.S.



**Section 9.** Repeals s. 377.806, F.S., relating to the Solar Energy System Incentives Program.

**Section 10.** Repeals s. 377.807, F.S., relating to the Energy-Efficient Appliance Rebate Program.

**Section 11.** Provides an effective date of July 1, 2014.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Having access to location and pricing information for alternative fuel and electric vehicle charging stations may facilitate the use of vehicles utilizing these types of energy.

### **D. FISCAL COMMENTS:**

According to the Department of Agriculture and Consumer Services,

The annual membership fee for the Southern States Energy Board is \$47,212.00. Historically this fee was paid with Petroleum Violation Escrow (PVE) settlement agreement funds. However, those funds are now depleted. The Legislature would need to appropriate recurring General Revenue funds in this amount for the purpose of paying the annual membership fee. The department has a FY 14/15 LBR [Legislative Budget Request] Issue to shift funding authority from the Federal Grants Trust Fund to General Revenue to address this.<sup>28</sup>

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

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<sup>28</sup> Department of Agriculture and Consumer Services, Agency Analysis of SB 1044 (March 5, 2014).

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**